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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,889	09/17/2003	Xin Xue	SONY-26800	9090
28960 7590 03/11/2008 HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086				
EXAMINER				
TO, BAOTRAN N				
ART UNIT		PAPER NUMBER		
2135				
MAIL DATE		DELIVERY MODE		
03/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/666,889

Applicant(s)

XUE, XIN

Examiner

Baotran N. To

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/28/2007 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD/CS)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/28/2007 has been entered.

This Office action is in response to the Applicant's Amendment filed 10/24/2007.

Claims 1, 10, 19, 28, and 36 are amended.

Claims 1-43 are pending in the application.

Response to Arguments

2. Applicant's arguments filed 10/24/2007 have been fully considered but they are not persuasive.

Applicant argues that "Hori does not teach that the authentication data includes a predetermined level of content access. Hori teaches challenging the authenticity of the user's device to establish access, not to determine a level of access. Hori further does not teach determining the predetermined level of content access" (Page 8 of Remarks).

Examiner respectfully disagrees with applicant. Hori explicitly discloses "In response to a distribution request, license server 10 **verifies the authenticity of the**

user's memory card through authentication server 12, and distributes encrypted content data and license thereof corresponding to the music request to the user's cellular phone" (Paragraph 0064). Furthermore, Hori discloses "Information to control the operation of the apparatus constituting the system, i.e. cellular phone 100 which is a content reproduction circuit and memory card 110, **includes purchase condition information AC** transmitted from cellular phone 100 to distribution server 30 when a user purchases a content decryption key or the like for the purpose of specifying the purchase condition, **access restriction information AC1 indicating restriction** and the like as to the number of accesses to memory card 110, distributed from distribution server 30 towards memory card 110 loaded in cellular phone 100 **according to purchase condition information AC corresponding to the intention of the content supplier and the content purchaser**, and **reproduction circuit restriction information AC2 indicating restriction as to the reproduction condition of the content reproduction circuit**, transmitted from distribution server 30 to memory card 110 loaded in cellular phone 100, and applied from memory card 110 to the content reproduction circuit in cellular phone 100. The reproduction condition of the content reproduction circuit implies the condition, for example, of allowing reproduction of only the beginning of each content data for a predetermined time such as in the case where a sample is distributed at low price or freely to promote a new song" (paragraph 0089).

For at least the above reasons, it is believed that the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Hori et al. (U.S. Patent Application Publication: 2004/0010467 A1) hereinafter Hori.

Regarding Claim 1, Hori discloses a method of downloading content from a server to an electronic device (Figure 1), comprising:

storing authentication data on a removable memory (memory card 110), wherein the authentication data includes a predetermined level of content access (i.e., Memory card 110 further includes a license hold unit 1440 storing license ID, content ID and **access restriction information AC1 indicating restriction**) (paragraph 0064, 0089 and 0128-0129);

accessing the server (distribution server 30) with the electronic device (cellular phone 100/102) (Figure 1, elements 30, 100 or 102, paragraph 0064 and 0068);

authenticating the removable memory by reading the authentication data from the removable memory to determine the predetermined level of content access (paragraphs 0064 and 0089); and

downloading the content from the server to the removable memory according to the predetermined level of content access (paragraphs 0064-0065 and 0089).

Regarding Claim 10, Hori discloses a system for downloading content from a server to an electronic device, comprising:

means for storing authentication data on a removable memory (memory card 110/112), wherein the authentication data includes a predetermined level of content access (i.e., Memory card 110 further includes a license hold unit 1440 storing license ID, content ID and **access restriction information AC1 indicating restriction**) (paragraph 0064, 0089 and 0128-0129);

means for receiving the removable memory in the electronic device (Figure1, paragraph 0065);

means for accessing the server (distribution server 30) with the electronic device (cellular phone 100/102) (Figure 1, elements 30, 100 or 102, paragraphs 0064 and 0068);

means for authenticating the removable memory by reading the authentication data from the removable memory to determine the predetermined level of content access (paragraphs 0064 and 0089); and

means for downloading the content from the server to the removable memory according to the predetermined level of content access (paragraphs 0064-0065 and 0089).

Regarding Claim 19, Hori discloses a system for downloading content, comprising:

a removable memory (memory card 110/112), the removable memory including authentication data, the authentication data including a predetermined level of content access (i.e., Memory card 110 further includes a license hold unit 1440 storing license ID, content ID and **access restriction information AC1 indicating restriction**) (paragraph 0064, 0089 and 0128-0129);

an electronic device configured to receive the removable memory (cellular phone 100/102) (Figure 1, elements 30, 100 or 102, paragraphs 0064-0065 and 0068); and

a server (distribution server 30), wherein when the electronic device accesses the server, the removable memory is authenticated by reading the authentication data from the removable memory and determining the predetermined level of content access (paragraphs 0064 and 0089), and further wherein once authenticated, content according to the predetermined level of content access is downloaded from the server to the electronic device (Figure 1, elements 30, 100 or 102, paragraphs 0064-0065 and 0089).

Regarding Claim 28, Hori discloses an electronic device for downloading, comprising:

a memory slot configured to receive a removable memory (memory card 110/112), wherein the removable memory includes authentication data, the authentication data including a predetermined level of content access (i.e., Memory card

110 further includes a license hold unit 1440 storing license ID, content ID and **access restriction information AC1 indicating restriction**) (paragraph 0064, 0089 and 0128-0129); and

a communications interface configured for coupling to a server (distribution server 30), wherein when the electronic device accesses the server through the communications interface, the removable memory is authenticated by reading the authentication data from the removable memory to determine the predetermined level of content access (paragraphs 0064 and 0089), further wherein content according to the predetermined level of content access is downloaded (Figure 1, elements 30, 100 or 102, paragraphs 0064-0065 and 0089).

Regarding Claim 36, Hori discloses a removable memory (memory card 110/112) for downloading, comprising:

authentication data, the authentication data including a predetermined level of content access (i.e., Memory card 110 further includes a license hold unit 1440 storing license ID, content ID and **access restriction information AC1 indicating restriction**) (paragraph 0064, 0089 and 0128-0129);

a communications interface configured for coupling to a server (distribution server 30), wherein when an electronic device (cellular phone 100/102) accesses the server through the communications interface (Figure 1, paragraph 0138), the removable memory is authenticated by reading the authentication data from the removable memory the predetermined level of content access (paragraphs 0064 and 0089), further

wherein the electronic device includes a memory slot configured to receive the removable memory (Figure 1, paragraph 0063-0064), and further

wherein content according to the predetermined level of content access is downloaded (Figure 1, elements 30, 100 or 102, paragraphs 0064-0065 and 0089).

Regarding Claims 2, 11, 20, 29, and 37, Hori discloses the limitations of Claim 1 above. Hori further discloses wherein the authenticating is performed by the server (paragraph 0063).

Regarding Claims 3, 12, 21, 30, and 38, Hori discloses the limitations of Claim 1 above. Hori further discloses wherein the removable memory is a semiconductor memory (Figure 1, element 110, paragraph 0065).

Regarding Claims 4, 13, 22, 31, and 39, Hori discloses the limitations of Claim 1 above. Hori further discloses time stamping the authentication data, such that the predetermined level of content access is available for a predetermined amount of time (paragraphs 0099-0100, 0115).

Regarding Claims 5, 14, 23, 32, and 40, Hori discloses the limitations of Claim 1 above. Hori further discloses wherein the server is accessed through a wired internet connection, further wherein the wired internet connection includes a conduit and a personal computer (Figures 1 and 4).

Regarding Claims 6, 15, 24, 33, and 41, Hori discloses the limitations of Claim 1 above. Hori further discloses wherein the server is accessed through a wireless connection (Figure 1, paragraph 0076).

Regarding Claims 7, 16, and 25, Hori discloses the limitations of Claim 6 above. Hori further discloses wherein the wireless connection includes an internet connection (paragraph 0071).

Regarding Claims 8, 17, 26, 34, and 42, Hori discloses the limitations of Claim 6 above. Hori further discloses wherein the wireless connection includes a local area network (paragraph 0071).

Regarding Claims 9, 18, 27, 35, and 43, Hori discloses the limitations of Claim 6 above. Hori further discloses wherein the wireless connection includes a wide area network (paragraph 0071).

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baotran N. To whose telephone number is (571)272-8156. The examiner can normally be reached on Monday-Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. N. T./
Examiner, Art Unit 2135
02/27/2008

/KIMYEN VU/
Supervisory Patent Examiner, Art Unit 2135